

APPEAL NO. 021510
FILED JULY 11, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 15, 2002. The hearing officer resolved the disputed issues by concluding that the appellant (claimant) did not sustain a compensable injury and, because the claimant did not sustain a compensable injury, that he had no disability. The claimant appeals, asserting that he had a compensable injury and disability. In its response, the respondent (carrier) contends that the determinations of the hearing officer are fully supported by the evidence in the record.

DECISION

Affirmed.

The hearing officer made findings of fact and concluded that the claimant did not sustain a compensable injury on _____, and that he therefore did not have disability. Without a compensable injury, the claimant cannot have disability, as defined by Section 401.011(16). The claimant had the burden to prove that he was injured in the course and scope of his employment and that he had disability. There was conflicting evidence presented in this case, and the hearing officer specifically noted that the claimant's testimony was unconvincing. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As the trier of fact, the hearing officer may believe all, part, or none of the testimony of any witness. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. The finder of fact may believe that the claimant has an injury, but disbelieve the claimant's testimony that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). An appellate-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its judgment for that of the trier of fact. Appeal No. 950084, *supra*. We conclude that the challenged findings are supported by sufficient evidence and not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 70 9 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **NORTH AMERICAN SPECIALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**C T CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Michael B. McShane
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Roy L. Warren
Appeals Judge